

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

JAMES A. RUSSELL,

Petitioner,

: Case No. 3:15-cv-331

- vs -

District Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz

LYNEAL WAINWRIGHT, Warden,

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Respondent.

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**ORDER DISSOLVING CONDITIONAL WRIT OF HABEAS CORPUS  
AND CLOSING THIS CASE ON THE DOCKET**

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On May 26, 2020, in obedience to the Mandate of the Sixth Circuit Court of Appeals, this Court issued a Conditional Writ of Habeas Corpus which commanded respondent to release Petitioner from custody unless the Ohio Second District Court of Appeals for Montgomery County granted Petitioner a new appeal in which he was permitted to litigate an assignment of error claiming that his convictions for murder and aggravated robbery should have been merged under Ohio Revised Code § 2941.25 (ECF No. 72).

The Court now *sua sponte* takes judicial notice<sup>1</sup> of the fact that in its Case No. 24443 the Second District has satisfied the Conditional Writ by granting Petitioner a new appeal on June 30, 2020.<sup>2</sup>

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<sup>1</sup> Public records and government documents, including those available from reliable sources on the Internet, are subject to judicial notice. *United States ex rel Dingle v. BioPort Corp.*, 270 F. Supp. 2d 968, 972 (W.D. Mich. 2003). A federal district court is permitted to take judicial notice of another court's website. *Graham v. Smith*, 292 F. Supp. 2d 153, 155, n.2 (D. Me. 2003); *Ward v. Wolfenbarger*, 323 F. Supp. 2d 818, 821 (E.D. Mich. 2004).

<sup>2</sup> Docket in Case No. CA 24443 on line at [www.clerk.co.montgomery.oh.us](http://www.clerk.co.montgomery.oh.us), visited October 14, 2020.

Accordingly, the Conditional Writ having been satisfied, it is hereby ORDERED that the Conditional Writ be dissolved and this case be terminated on the docket records of this Court.

The Clerk shall send a certified copy of this Order to The Honorable Michael Tucker, Presiding Judge of the Ohio Second District Court of Appeals, at 41 North Perry St., Dayton, Ohio.

October 14, 2020

\*s/Thomas M. Rose

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Thomas M. Rose  
United States District Judge